



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,287	02/15/2002	Dean M. Rivera	KSCII.006A	3445

20995 7590 01/08/2003

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 01/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,287

Applicant(s)

RIVERA ET AL.

Examiner

Jon A Szumny

Art Unit

3632

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Notice of References Cited

Application/Control No.

10/078,287

Applicant(s)/Patent Under
R examination
RIVERA ET AL.

Examiner

Jon A Szumny

Art Unit

3632

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,669,593	09-1997	Kirchner, Richard N.	248/476
	B	US-6,061,874	05-2000	Tatara, Stanley R.	16/285
	C	US-401,978	04-1889	Spruce et al.	16/304
	D	US-765,372	07-1904	Bading, William F.	16/285
	E	US-1,883,508	10-1932	Bonday, Frederick W.	248/536
	F	US-2,568,942	09-1951	Bindel, Charles J.	248/27.1
	G	US-2,770,436	11-1956	Linhardt, Charles Jr.	248/57
	H	US-2,772,062	11-1956	Bowser, Harley O.	248/27.1
	I	US-6,449,919	09-2002	Behlen, Dean B.	52/699
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

This is the first office action for application number 10/078,287, Folding Speaker Bracket, filed on February 15, 2002.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4 and 7-17, drawn to a speaker bracket, classified in class 248, subclass 231.9.
- II. Claims 5 and 6, drawn to a method of mounting a speaker in a mounting surface, classified in class 181, subclass 171.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process could be used not only with a bracket, but also with any item capable of folding and being inserted through a mounting hole so as to mount an object.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Tom Arno on January 2, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-4 and 7-17. Affirmation of this election must be made by applicant in replying

to this Office action. Claims 5 and 6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,669,593 to Kirchner.

Regarding claims 1-4, Kirchner '593 discloses a bracket (figure 4) comprising a first half rotatably connected to a second half (figure 4) so as to define an axis of rotation, and a spring (figure 4); wherein the first half can rotate to and from an unfolded position; wherein the spring biases the rotation of the halves towards the unfolded position.

With respect to claim 17, Kirchner '593 discloses a bracket resting against the backside of a surface (figure 4) comprising flexible material.

Claims 1-4 and 7-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 6,061,874 to Tatara.

Regarding claims 1-4, Tatara '874 discloses a bracket (figure 1) comprising a first half rotatably connected to a second half (figure 1) so as to define an axis of rotation, and a spring (10); wherein the first half can rotate to and from an unfolded position; wherein the spring biases the rotation of the halves towards the unfolded position.

Regarding claim 7, Tatara '874 teaches a folding bracket (figure 1) that rests against the backside of a mounting surface (inherently) wherein the bracket is hinged (near 10, generally) at one or more locations along the approximate midpoint of the bracket.

With respect to claims 8-10, Tatara '874 teaches a bracket (figure 1) comprising a hinge (near 10, generally) connecting first and second halves (figure 1), a first bracket support (screw through 41) attached to the first half of the speaker mounting portion, a second bracket support (screw through 41) attached to the second half of the speaker mounting portion, and a spring (10) biasing the first half toward an unfolded position.

With respect to claims 11-13, 15 and 16, Tatara '874 discloses a bracket (figure 1) resting against the backside of a mounting surface (inherently) comprising a mounting portion (figure 1), at least one support arm (figure 1), folding means comprising a pair of pin joints (27,28) comprising screws, and unfolded state returning means comprising a spring (10).

Regarding claims 11 and 14, Tatara '874 alternatively teaches the folding means to comprise a flexible material (10).

Art Unit: 3632


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spruce et al. '978, Bading '372, Bonday '508, Bindel '942, Linhardt, Jr. '436, Bowser '062 and Behlen '919 divulge various folding brackets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
January 2, 2003



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER